

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1003 Veterans
SPONSOR(S): Agriculture and Natural Resources Policy Committee, Drake
TIED BILLS: IDEN./SIM. BILLS: SB 348

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Agriculture & Natural Resources Policy Committee, 9 Y, 0 N, As CS, Thompson, Reese.

SUMMARY ANALYSIS

Charitable organizations and sponsors that engage in solicitation activities in Florida must register with the Department of Agriculture and Consumer Services (DACS) and provide certain financial and background information, as required by chapter 496, F.S. Under specified circumstances, a person who is soliciting for a named individual and a charitable organization or sponsor that limits solicitation of contributions to the membership of the charitable organization or sponsor, is exempt from said registration requirements.

Currently, Title 36, Subtitle II, of the U.S. Code lists nonprofit corporations whose purpose is to promote patriotic, charitable, educational, and other eleemosynary activities. All "private corporations established under federal law," as defined and listed in Subtitle II, are required to have independent audits annually, and to have the reports of the audits submitted to Congress. Such organizations are also required to submit annual reports of their activities to Congress.

To be eligible for the opportunities provided for under the Florida Service-Disabled Veteran Business Enterprise Opportunity Act, a service-disabled veteran who is a permanent Florida resident must have suffered a service-connected disability of 10 percent or greater as determined by the United States Department of Veterans Affairs. To be eligible for residency in the Veterans' Domiciliary Home of Florida, or the Veterans' Nursing Home of Florida, a veteran must meet certain service-related criteria.

The bill exempts any division, department, post, or chapter of a veterans' service organization, which has been granted a federal charter under Title 36, U.S.C. The bill deletes the eligibility requirement that service-disabled veterans must have suffered a 10% or greater service-connected disability in order to be eligible to receive any of the benefits provided for under the Florida Service-Disabled Veteran Business Enterprise Opportunity Act. The bill revises the eligibility requirements for residency in the Veterans' Domiciliary Home of Florida and the Veterans' Nursing Home of Florida Act to include veterans who have peacetime service and include veterans who have been approved by the U.S. Department of Veterans Affairs.

Some of the provisions of the bill are expected to have a fiscal impact on state government and the private sector. For details, see the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT section of the analysis.

The bill's effective date is July 1, 2010.

1 For purposes of this part, the term "membership" does not include those persons who are granted a membership upon making a contribution as a result of a solicitation.

2 36 U.S.C. 10101

3 s. 295.187, F.S.

4 Chapter 296, Part I

5 Chapter 296, Part II

6 s. 295.187, F.S.

7 Chapter 296, Part I

8 Chapter 296, Part II

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Charitable Organizations

Section 501(c)(3) of the Internal Revenue Code provides federal tax benefits to certain not-for-profit and charitable organizations.<sup>9</sup> Such organizations are commonly referred to as charitable organizations. To be tax exempt, an organization must be organized and operated exclusively for charitable purposes such as educational, religious, scientific, literary, fostering national or international sports competition, preventing cruelty to children or animals, or testing for public safety. Charitable organizations are reliant upon community support through the solicitation of funds as sources of revenue.

Charitable organizations or sponsors that engage in solicitation activities in Florida must register with the Department of Agriculture and Consumer Services (DACS) and provide certain financial and background information, as required by chapter 496, F.S. Before engaging in solicitation activities, charitable organizations or sponsors are required to file an initial registration statement, an annual renewal statement, and an annual financial report with the DACS.<sup>10</sup> Such registration must contain prescribed information<sup>11</sup> and be accompanied by the appropriate fee.<sup>12</sup>

Every charitable organization, sponsor, or parent organization filing on behalf of one or more chapters, branches, or affiliates that is required to register under this section must pay a single registration fee. A parent organization filing on behalf of one or more chapters, branches, or affiliates must total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees are assessed as:

- Ten dollars, if the contributions received for the last fiscal or calendar year were less than \$5,000;
- Ten dollars, if the contributions actually raised or received from the public during the immediately preceding fiscal year by such organization or sponsor are no more than \$25,000 and the fundraising activities of such organization or sponsor are carried on by volunteers, members, officers, or permanent employees, who are not compensated, primarily to solicit such

<sup>9</sup> <http://www.irs.gov/charities/charitable/article/0,,id=96099,00.html>

<sup>10</sup> s. 496.405, F.S.

<sup>11</sup> s. 496.405(2), F.S.

<sup>12</sup> s. 496.405(4), F.S.

contributions, provided no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer;

- Seventy-five dollars, if the contributions received for the last fiscal year were \$5,000 or more, but less than \$100,000;
- One hundred twenty-five dollars, if the contributions received for the last fiscal year were \$100,000 or more, but less than \$200,000;
- Two hundred dollars, if the contributions received for the last fiscal year were \$200,000 or more, but less than \$500,000;
- Three hundred dollars, if the contributions received for the last fiscal year were \$500,000 or more, but less than \$1 million;
- Three hundred fifty dollars, if the contributions received for the last fiscal year were \$1 million or more, but less than \$10 million; or
- Four hundred dollars, if the contributions received for the last fiscal year were \$10 million or more.

A charitable organization or sponsor may be assessed a \$25 fee for each month of late filing after the date on which the annual renewal statement and financial report were due to be filed with the DACS.

Currently, s. 496.406, F.S., provides the following exemptions to the registration requirements listed above:

- A person who is soliciting for a named individual provided that all the contributions collected without any deductions whatsoever are turned over to the beneficiary for her or his use and provided that the person has complied with certain statutory requirements, and
- A charitable organization or sponsor that limits solicitation of contributions to the membership<sup>13</sup> of the charitable organization or sponsor.

### Title 36 Organizations

Currently, Title 36, Subtitle II, of the U.S. Code lists nonprofit corporations whose purpose is to promote patriotic, charitable, educational, and other eleemosynary activities. Such corporate charters are granted in law by act of Congress. Generally, these chartered organizations are referred to under any of three terms: "Congressionally chartered organizations;" "Title 36 corporations;" and "patriotic societies." Such corporations listed in Title 36 are not agencies of the United States, and the charter does not assign any governmental attributes.<sup>14</sup> Many of these organizations are military veteran services oriented.

Currently, federal supervision of congressionally chartered nonprofit organizations is limited. All "private corporations established under federal law," as defined and listed in Subtitle II, are required to have independent audits annually, and to have the reports of the audits submitted to Congress.<sup>15</sup> Such organizations are also required to submit annual reports of their activities to Congress.

### Disabled Veterans

The intent of the Florida Service-Disabled Veteran Business Enterprise Opportunity Act<sup>16</sup> (Act) is to rectify the economic disadvantage of service-disabled veterans by providing opportunities for service-disabled veteran business enterprises. In order to qualify for such opportunities, a service-disabled veteran who is a permanent Florida resident must have suffered a service-connected disability of 10 percent or greater as determined by the United States Department of Veterans Affairs.

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<sup>13</sup> For purposes of this part, the term "membership" does not include those persons who are granted a membership upon making a contribution as a result of a solicitation.

<sup>14</sup> CRS Report for Congress, Congressionally Charters Nonprofit Organizations ("Title 36 Corporations"): What They Are and how Congress Treats Them; Updated April 8, 2004; Ronald C. Moe, Consultant in American National Government

<sup>15</sup> 36 U.S.C. 10101

<sup>16</sup> s. 295.187, F.S.

The Veterans' Domiciliary Home of Florida<sup>17</sup> (Veterans' Home) is for veterans who served in wartime service or peacetime service.<sup>18</sup> The Veterans' Home is maintained for the use of those veterans who are not in need of hospitalization or nursing home care and who can attend to their personal needs. To be eligible for residency in the Veterans' Home, a veteran must meet certain service-related criteria.

The purpose of the Veterans' Nursing Home of Florida Act<sup>19</sup> is to establish basic standards for the operation of veterans' nursing homes for veterans in need of such services who possess an honorable discharge and have served in specified campaigns.<sup>20</sup> To be eligible for residency in such a nursing home, a veteran must meet certain service-related criteria.

### **Proposed Changes**

The bill amends s. 496.406, F.S., to exempt any division, department, post, or chapter of a veterans' service organization, which has been granted a federal charter under Title 36, U.S.C.

The bill deletes the eligibility requirement that service-disabled veterans must have suffered a 10% or greater service-connected disability in order to be eligible to receive any of the benefits provided for under the Florida Service-Disabled Veteran Business Enterprise Opportunity Act.<sup>21</sup>

The bill revises the eligibility requirements for residency in the Veterans' Domiciliary Home to correct the cross reference regarding wartime service, and include veterans who have been approved as eligible for care and treatment by the U.S. Department of Veterans Affairs. Similarly, the bill revises the eligibility requirements for the Veterans' Nursing Home of Florida Act<sup>22</sup> to include veterans who have peacetime service as defined in statute,<sup>23</sup> and include veterans who have been approved as eligible for care and treatment by the U.S. Department of Veterans Affairs.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 496.406, F.S., exempting any division, department, post, or chapter of a veterans' service organization granted a federal charter under Title 36, U.S.C., from the requirements to register with the Department of Agriculture and Consumer Services.

Section 2. Amends s. 295.187, F.S., revising the definition of the term "service-disabled veteran" for eligibility purposes provided for under the Florida Service-Disabled Veteran Business Enterprise Opportunity Act.

Section 3. Amends s. 296.06, F.S., revising eligibility requirements for residency in the Veterans' Domiciliary Home of Florida.

Section 4. Amends s. 296.36, F.S., revising eligibility requirements for admittance into a licensed health care facility operated by the Department of Veterans' Affairs.

Section 5. Provides an effective date of July 1, 2010.

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<sup>17</sup> Chapter 296, Part I

<sup>18</sup> s. 296.02, F.S.

<sup>19</sup> Chapter 296, Part II

<sup>20</sup> s. 1.01(14), F.S.

<sup>21</sup> s. 295.187, F.S.

<sup>22</sup> Chapter 296, Part II

<sup>23</sup> s. 296.02, F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

According to the DACS, in Fiscal Year 2008-09, military veterans' organizations that were registered with the DACS paid annual registration fees totaling \$41,660. Exempting these organizations from registration requirements may create a loss of state revenue.

#### 2. Expenditures:

According to the Department of Veterans' Affairs (DVA), the bill will have no fiscal impact. DVA currently admits both wartime and peacetime veterans, a policy which is not clear in current statute. The proposed legislation clarifies existing DVA policy.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None

#### 2. Expenditures:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments below.

### D. FISCAL COMMENTS:

Making the eligibility more inclusive for the Florida Service-Disabled Veteran Business Enterprise Opportunity Act may help to rectify the economic disadvantage of additional veterans and consequently, have a positive fiscal impact on the private sector.

To the extent that the bill may improve the health of service-disabled veterans in Florida by providing additional access to medical care through more inclusive domiciliary and nursing home eligibility requirements, associated medical and insurance costs to the private sector may be decreased.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

#### 2. Other:

None

### B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 11, 2010, the Agriculture and Natural Resources Policy Committee adopted one amendment to the bill. The amendment:

- Exempts federally chartered veterans service organizations that are actually required to register with the DACS.
- Revises the definition of the term “service-disabled veteran” in the Florida Service-Disabled Veteran Business Enterprise Opportunity Act by deleting the service-connected disability constraint of 10% or greater.
- Revises the eligibility requirements for residency in the Veterans Domiciliary Home of Florida.
- Revises eligibility requirements for admittance into a licensed healthcare facility operated by the Florida Department of Veterans’ Affairs.